

### Remarks

The Office Action mailed June 6, 2008 has been carefully considered. Applicants have amended independent Claims 1; 12; and 26. Dependent Claims 4; 21; and 28 and 44 were previously cancelled without prejudice. Thus, Claims 1-3 and 5-11; 12-20 and 22-25; and 27, 29-43 and 45-48 remain in the case

The Applicants gratefully acknowledge the telephone conversation between the Examiner and Applicants' attorney on September 3, 2008. In this discussion, Applicants' attorney explained that Applicants' recently discovered reference<sup>1</sup> described a wall assembly that received a 2-hour rating for 47.5% of full design load, while the present inventions pertain to an improved wall assembly that received a 2-hour rating for 75% of full design load.

A separation wall with a 2-hour rating of 75% is critical because it lends itself to use in multi-level structure, while a separation wall with a 2-hour rating of 47.5% does not. The former provides considerable structural and commercial benefits while the latter does not. This is set forth in the Declarations of Messers Stewart and Trumbo, submitted contemporaneously with this Response.

The specification discloses the present invention's utility in a multi-level structure at page 4, lines 18-19.

#### Claims 1-3, 5-20, 22-27, 29-43 and 45-48 Are Not Properly Rejected Under 35 USC §103(a)

Applicant respectfully points out that the combination of Gebhardt, Mulford and ASTM E119-95a (the "Omega Reference") fails to teach every element of every claim. Specifically, Gebhardt does not appear to be suited for multi-level structures, and therefore does not inherently or explicitly teach 75% load bearing. Mulford walls are "slid into" building frames and don't appear to provide load bearing properties, let alone 75% load bearing. Finally, as described above, the Omega Reference does not teach 75% design load, it teaches 47.5% design load.

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<sup>1</sup> ASTM E-119-95a; Fire Tests of Building Construction and Materials; Limited Load Conditions\*; 2 x 4 Wood Double Leaf Wall; Project No. 15746-10191. Referred to herein as the "Omega Reference".

For the reasons discussed above, Applicants believe the Office's rejections have been addressed and overcome, and earnestly solicit allowance. However, if Applicants' attorney can assist in resolving any issue, the opportunity for a telephone interview would be welcomed.

Respectfully submitted,



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